

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of REBACCA ROSEBRUGH and
STEPHANIE NEVITT, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARIA ROSEBRUGH,

Respondent-Appellant.

UNPUBLISHED

August 7, 2007

No. 274755

Ogemaw Circuit Court

Family Division

LC No. 05-012929-NA

Before: Smolenski, P.J., and Fitzgerald and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the order of the circuit court, family division, terminating her parental rights to the minor children. We affirm.

In order to terminate parental rights, the trial court must find that at least one statutory ground for termination has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). We review a court's conclusion in this regard for clear error. See *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); MCR 3.977(J). The trial court cited MCL 712A.19b(3)(b)(i) (parent caused physical injury or abuse, or sexual abuse), (b)(ii) (failure to prevent physical injury or abuse, or sexual abuse), (g) (failure to provide care and custody), (j) (child likely to be harmed if returned), and (k)(ii) (actual or attempted sexual penetration). Although there was some evidence that respondent herself had committed sexual abuse, the trial court did not expressly so conclude. Accordingly, we will confine our review to subsections (b)(ii), (g), and (j).

There was abundant evidence that respondent had, for years, failed to maintain sanitary conditions at home, despite multiple interventions by this and another state.

More disturbingly, the older child, then aged six years, testified that respondent's husband, his brother, and his father had repeatedly sexually abused her, by touching her vaginal region, and imposing fellatio. The child made this known to respondent, who took no action to protect her beyond expressing some disapproval. The child additionally testified that these men

had likewise abused the other, younger, child. Moreover, the older child was the offspring of respondent's own father, who had had a long history of sexually abusing respondent. Even so, respondent admitted allowing her father to transport the older child from Texas to Oregon.

Respondent concedes that sexual abuse took place, but argues that she "was not given the opportunity to dissociate herself from her husband." We are unpersuaded by this argument. The evidence clearly established that respondent has been unwilling or unable to protect her children from known sex-abuse hazards.

The trial court did not clearly err in concluding that termination was proper in accordance with § 19b(3)(b)(ii), (g), and (j). See MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the evidence did not establish that termination was clearly not in the children's best interests. See MCL 712A.19b(5); *Trejo, supra* at 344.

Affirmed.

/s/ Michael R. Smolenski
/s/ E. Thomas Fitzgerald
/s/ Kirsten Frank Kelly